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July 16, 2003

7/16/03

TO: Andy Kashnikow

FAX NUMBER: (703) 305-5915

FROM: Jennifer D. Weinbach, CP
Certified Paralegal to B. Craig Killough

RE: Application No. 09/244,374

OUR FILE NO.: 1575.001/REISSUE

Pages 7 including cover sheet

*Reissue
Declaration*

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Message to Addressee:

Pursuant to our telephone conversation today, please see the attached.

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From: B. Craig Killough

Date: March 12, 2002

To: Examiner Gloria Hale
Fax No.: (703) 746-4902
Group Art Unit 3741
Our File No. 1575.001

Pages 6, including cover sheet

The original of this transmission will be sent by:

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Documents attached: Please see attached Communication and Declaration.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): HOLLIDAY, D.	Group Art Unit: 3741
Application No.09/244,374	Examiner: G. Hale
Filed: 2/4/1999	
Title: ATHLETIC BREAST AND CHEST PROTECTOR	
Attorney Docket No.: 1575.001	

BOX NO FEE

Assistant Commissioner for Patents

Washington, D.C. 20231

Filed Via Facsimile

(703) 746-4902

COMMUNICATION TO THE EXAMINER

Dear Sir:

A New Declaration is transmitted herewith.

REMARKS

Applicant appreciates the Examiner's advice by telephone that the Office deems the Declaration filed October 24, 2000 to be defective, in that it does not particularly state "at least one error being relied upon as the basic for reissue" as required by 37 C.F.R. §1.175.

It is respectfully submitted that the Declaration filed October 24, 2000 is sufficient under 37 C.F.R. §1.175. It should be noted that 37 C.F.R. §1.175 formerly required a statement in the Declaration "particularly specifying the errors relied upon, and how they arose or occurred." (former version of 37 C.F.R. §1.175(a)(5). However, subsection (5) has been deleted from 37 C.F.R. §1.175(a), and accordingly, there is no current

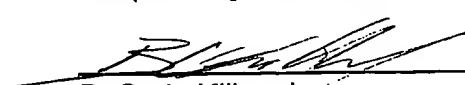
Serial Number: 09/244,744
Art Unit: 3741

requirement that the Declaration particularly specify the errors relied upon, and how they arose or occurred.

MPEP §1402 states that "An attorney's failure to appreciate the full scope of the invention was held to be an error correctable through reissue. *In Re Wilder*, 736 F.2d 1516 (Fed. Cir. 1984)." While the Declaration filed October 24, 2000 is adequate under the current version of 37 C.F.R. §1.175, nonetheless, a new Declaration is submitted herewith, wherein it is stated that the attorney who prosecuted the original application failed to appreciate the full scope of the invention. *In Re Wilder*, the applicant set forth the specific errors relied upon and how they arise or occurred. However, *In Re Wilder* construed 37 C.F.R. §1.175 prior to subsection (a)(5) thereof being deleted.

The Examiner also indicated by telephone that the case was in condition for allowance, subject to resolving the issue regarding the Declaration as addressed herein, and subject to Patentee's submission of the original Patent. The original Patent will be transmitted to the Examiner under separate cover.

Respectfully submitted,


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Dated: March 11, 2002

Serial Number: 09/244,614
Art Unit: 3741

CERTIFICATE OF FACSIMILE

I hereby certify that this Communication to the Examiner is being filed via facsimile to Examiner Hale at (703) 746-4902 addressed to: Commissioner of Patents and Trademarks, Box Non-Fee Amendments, Washington, D.C. 20231, on this 12 day of March, 2002.

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